RULES OF THE SUPREME COURT OF THE UNITED STATES

(Adopted December 5, 1989, effective January 1, 1990, as amended to January 2, 1991)

TABLE OF CORRESPONDING SUPREME COURT RULES

This table shows the corresponding relationship between the rules effective June 30, 1980, and the rules effective January 1, 1990.

1980	1990
1	1, 7
2-8	2-8
9	17
—	9
10-16	18
17	10
18	11
19	12
20	13
21	14
22	15
23	16
24	19
25	19
26	20
27	20
28	29
29	30
30	26
31	31
32	32
33	33
34	24
35	25
36	37
37	27
38	28
39	34
40	35
41	36
42	21
43	22
44	23
45	38
46	39
47	40
48	41
49	42
50	43
51	44
52	45
53	46
54	47
55	48

This table shows the corresponding relationship between the rules effective July 1, 1970, and the rules effective June 30, 1980.

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1970	1980
1-11	1-11
12	13
13	12
14-16	14-16
17	Omitted
18	44
19	17
20	18
21	19
22	20
23	21
24	22
25	23
26	Omitted
27	44
28	24
29	25
30	26
31	27
32	Omitted
33	28
34	29
35	42
36	30
37	31
38	32
39	33
40	34
41	35
42	36
43	37
44	38
45	38
46	10, 19
47	39
48	40
49	41
50	43
51	44
52	45
53	46
54	47
55	48
56	49
57	50
58	51
59	52
60	53
61	54
62	55

This table shows corresponding relationship between the rules effective July 1, 1925, the rules effective July 1, 1928, the rules effective Feb. 27, 1939, the rules effective July 1, 1954, the rules effective Oct. 2, 1967, and the rules effective July 1, 1970.

1925	1926	1939	1954	1967	1970
1	1	1	1	1	1
2	2	2	5, 6, 8	5, 6, 8	5, 6, 8
—	3	3	7	7	7
3	4	4	2	2	2
—	—	5	9	9	9
4	5	—	—	—	—
5	6	6	9, 59	9, 59	9, 59
6	7	7	16, 20, 24, 35, 44	16, 20, 24, 35, 44	16, 20, 24, 35, 44
7	8	8	—	—	—
8	9	9	—	—	—
9	10	10	12	12	12
10	11	11	13, 14	13, 14	13, 14
—	12	12	15, 16	15, 16	15, 16
11	13	13	17, 26, 36	17, 26, 36	17, 26, 36
12	14	14	37	37	37
13	15	15	—	—	—
14	16	16	—	—	—
15	17	17	32	32	32
16	18	18	38	38	38
17	19	19	48	48	48
18	20	20	35, 43	35, 43	35, 43
19	21	21	—	—	—
20	22	22	—	—	—
21	23	23	—	—	—
22	24	24	—	—	—
23	25	25	45	45	45
24	26	26	39	39	39
25	27	27	40 to 42	40 to 42	40 to 42
26	28	28	44	44	44
27	29	29	55	55	55
28	30	30	56	56	56
—	31	31	—	—	—
29	32	32	52, 57	52, 57	52, 57
30	33	33	58	58	58
31	34	34	25, 59	25, 59	25, 59
32	35	35	60	60	60
33	36	36	18	18	18

1925	1926	1939	1954	1967	1970
34	37	37	28	28	28
35	38	38	19, 21 to 24, 27, 36	19, 21 to 24, 27, 36	19, 21 to 24, 27, 36
—	—	38½	11, 22	11, 22	11, 22
36	39	39	20	20	20
37	40	40	28	28	28
38	41	41	19	19	19
39	42	42	19	19	19
40	43	43	25	25	25
41	44	44	—	—	—
42	45	45	49	49	49
—	46	46	—	—	—
—	46½	47	—	—	—
—	—	48	46	46	46
43	47	49	4	4	4
44	48	50	3	3	3
45	49	51	61	62	62
—	—	—	62	61	61

PART I. THE COURT

Rule 1. Clerk

.1. The Clerk shall maintain the Court's records and shall not permit any of them to be removed from the Court building except as authorized by the Court. Any pleading, paper, or brief filed with the Clerk and made a part of the Court's records may not thereafter be withdrawn from the official Court files. After the conclusion of the proceedings in this Court, any original records and papers transmitted to this Court by any other court will be returned to the court from which they were received.

.2. The office of the Clerk will be open, except on a federal legal holiday, from 9 a.m. to 5 p.m., Monday through Friday, unless otherwise ordered by the Court or the Chief Justice. See 5 U.S.C. § 6103 for a list of federal legal holidays.

CROSS REFERENCES

Appointment, removal, and compensation of Clerk of Supreme Court, see section 671 of this title.

Court always open, see section 452 of this title.

Rule 2. Library

.1. The Court's library is available for use by appropriate personnel of this Court, members of the Bar of this Court, Members of Congress and their legal staffs, and attorneys for the United States, its departments and agencies.

.2. The library will be open during such times as the reasonable needs of the Bar may require. Its operation shall be governed by regulations made by the Librarian with the approval of the Chief Justice or the Court.

.3. Library books may not be removed from the building, except by a Justice or a member of a Justice's legal staff.

CROSS REFERENCES

Appointment, compensation, and duties of Supreme Court Librarian, see section 674 of this title.

Law Library of Congress—

Purchase of books under direction of Chief Justice, see section 135 of Title 2, The Congress.

Use and regulation by Supreme Court Justices, see section 137 of Title 2.

Rule 3. Term

.1. The Court will hold a continuous annual Term commencing on the first Monday in October. See 28 U.S.C. § 2. At the end of each Term,

all cases pending on the docket will be continued to the next Term.

.2. The Court at every Term will announce the date after which no case will be called for oral argument at that Term unless otherwise ordered.

Rule 4. Sessions and Quorum

.1. Open sessions of the Court will be held beginning at 10 a.m. on the first Monday in October of each year, and thereafter as announced by the Court. Unless otherwise ordered, the Court will sit to hear arguments from 10 a.m. until noon and from 1 p.m. until 3 p.m.

.2. Any six Members of the Court constitute a quorum. See 28 U.S.C. § 1. In the absence of a quorum on any day appointed for holding a session of the Court, the Justices attending, or if no Justice is present, the Clerk or a Deputy Clerk may announce that the Court will not meet until there is a quorum.

.3. The Court in appropriate circumstances may direct the Clerk or the Marshal to announce recesses.

CROSS REFERENCES

Quorum of Supreme Court justices absent, see section 2109 of this title.

PART II. ATTORNEYS AND COUNSELORS

Rule 5. Admission to the Bar

.1. It shall be requisite for admission to the Bar of this Court that the applicant shall have been admitted to practice in the highest court of a State, Commonwealth, Territory or Possession, or of the District of Columbia for the three years immediately preceding the date of application and shall have been free from any adverse disciplinary action whatsoever during that 3-year period, and that the applicant appears to the Court to be of good moral and professional character.

.2. Each applicant shall file with the Clerk (1) a certificate from the presiding judge, clerk, or other authorized official of that court evidencing the applicant's admission to practice there and the applicant's current good standing, and (2) a completely executed copy of the form approved by the Court and furnished by the Clerk containing (i) the applicant's personal statement and (ii) the statement of two sponsors (who must be members of the Bar of this Court and who must personally know, but not be related to, the applicant) endorsing the correctness of the applicant's statement, stating that the applicant possesses all the qualifications required for admission, and affirming that the applicant is of good moral and professional character.

.3. If the documents submitted demonstrate that the applicant possesses the necessary qualifications, has signed the oath or affirmation, and has paid the required fee, the Clerk will notify the applicant of acceptance by the Court as a member of the Bar and issue a certificato of admission. An applicant who so desires may be admitted in open court on oral motion by a member of the Bar of this Court, provided that all other requirements for admission have been satisfied.

.4. Each applicant shall take or subscribe to the following oath or affirmation:

I, ..., do solemnly swear (or affirm) that as an attorney and as a counselor of this Court, I will conduct myself uprightly and according to law, and that I will support the Constitution of the United States.

.5. The fee for admission to the Bar and a certificate under seal is $100, payable to the Marshal, U.S. Supreme Court. The Marshal shall maintain the proceeds as a separate fund to be disbursed by the Marshal at the direction of the Chief Justice for the costs of admissions, for the benefit of the Court and the Supreme Court Bar, and for related purposes.

.6. The cost for a duplicate certificate of admission to the Bar under seal is $10, payable to the Marshal, U.S. Supreme Court. The proceeds shall be maintained by the Marshal as provided in paragraph .5 of this Rule.

Rule 6. Argument Pro Hac Vice

.1. An attorney not admitted to practice in the highest court of a State, Commonwealth, Territory or Possession, or of the District of Columbia for the requisite three years, but who is otherwise eligible for admission to practice in this Court under Rule 5.1, may be permitted to argue *pro hac vice.*

.2. An attorney, barrister, or advocate who is qualified to practice in the courts of a foreign state may be permitted to argue *pro hac vice.*

.3. Oral argument *pro hac vice* will be allowed only on motion of the attorney of record for the party on whose behalf leave is requested. The motion must briefly and distinctly state the appropriate qualifications of the attorney who is to argue *pro hac vicc.* It must be filed with the Clerk, in the form prescribed by Rule 21, no later than the date on which the respondent's or appellee's brief on the merits is due to be filed and must be accompanied by proof of service pursuant to Rule 29.

Rule 7. Prohibition Against Practice

.1. The Clerk shall not practice as an attorney or counselor while holding office.

.2. No law clerk, secretary to a Justice, or other employee of this Court shall practice as an attorney or counselor in any court or before any agency of government while employed at the Court; nor shall any person after leaving employment in this Court participate, by way of any form of professional consultation or assistance, in any case pending before this Court or in any case being considered for filing in this Court, until two years have elapsed after separation; nor shall a former employee ever participate, by way of any form of professional consultation or assistance, in any case that was pending in this Court during the employee's tenure.

CROSS REFERENCES

Practice of law by justices, see section 454 of this title.

Rule 8. Disbarment and Disciplinary Action

.1. Whenever it is shown to the Court that a member of the Bar of this Court has been disbarred or suspended from practice in any court of record, or has engaged in conduct unbecoming a member of the Bar of this Court, that member will be suspended from practice before this Court forthwith and will be afforded the opportunity to show cause, within 40 days, why a disbarment order should not be entered. Upon response, or upon the expiration of the 40 days if no response is made, the Court will enter an appropriate order.

.2. The Court may, after reasonable notice and an opportunity to show cause why disciplinary action should not be taken, and after a hearing if material facts are in dispute, take any appropriate disciplinary action against any attorney who practices before it for conduct unbecoming a member of the Bar or for failure to comply with these Rules or any Rule of the Court.

Rule 9. Appearance of Counsel

.1. An attorney seeking to file a pleading, motion, or other paper in this Court in a representative capacity must first be admitted to practice before this Court pursuant to Rule 5. The attorney whose name, address, and telephone number appear on the cover of a document being filed will be deemed counsel of record, and a separate notice of appearance need not be filed. If the name of more than one attorney is shown on the cover of the document, the attorney who is counsel of record must be clearly identified.

.2. An attorney representing a party who will not be filing a document must enter a separate notice of appearance as counsel of record indicating the name of the party represented. If an attorney is to be substituted as counsel of record in a particular case, a separate notice of appearance must also be entered.

PART III. JURISDICTION ON WRIT OF CERTIORARI

Rule 10. Considerations Governing Review on Writ of Certiorari

.1. A review on writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only when there are special and important reasons therefor. The following, while neither controlling nor fully measuring the Court's discretion, indicate the character of reasons that will be considered:

(a) When a United States court of appeals has rendered a decision in conflict with the decision of another United States court of appeals on the same matter; or has decided a federal question in a way in conflict with a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision.

(b) When a state court of last resort has decided a federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals.

(c) When a state court or a United States court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way that conflicts with applicable decisions of this Court.

.2. The same general considerations outlined above will control in respect to a petition for a writ of certiorari to review a judgment of the United States Court of Military Appeals.

CROSS REFERENCES

Review of cases in the courts of appeals, see section 1254 of this title.

Review of decisions of the United States Court of Military Appeals, see section 1259 of this title.

Review of judgments and decrees of Supreme Court of Puerto Rico, see section 1258 of this title.

Review of orders and judgments of courts of appeals reviewing orders of Federal agencies, see section 2350 of this title.

Review of State court decisions to be same as review of United States court decisions, see section 2104 of this title.

Rule 11. Certiorari to a United States Court of Appeals Before Judgment

A petition for a writ of certiorari to review a case pending in a United States court of appeals, before judgment is given in that court, will be granted only upon a showing that the case is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate settlement in this Court. 28 U.S.C. § 2101(e).

Rule 12. Review on Certiorari; How Sought; Parties

.1. The petitioner's counsel, who must be a member of the Bar of this Court, shall file, with proof of service as provided by Rule 29, 40 copies of a printed petition for a writ of certiorari, which shall comply in all respects with Rule 14, and shall pay the docket fee prescribed by Rule 38. The case then will be placed on the docket. It shall be the duty of counsel for the petitioner to notify all respondents, on a form supplied by the Clerk, of the date of filing and of the docket number of the case. The notice shall be served as required by Rule 29.

.2. Parties interested jointly, severally, or otherwise in a judgment may petition separately for a writ of certiorari; or any two or more may join in a petition. A party who is not shown on the petition for a writ of certiorari to have joined therein at the time the petition is filed with the Clerk may not thereafter join in that petition. When two or more cases are sought to be reviewed on a writ of certiorari to the same court and involve identical or closely related questions, a single petition for a writ of certiorari covering all the cases will suffice. A petition for a writ of certiorari shall not be joined with any other pleading.

.3. Not more than 30 days after receipt of the petition for a writ of certiorari, counsel for a respondent wishing to file a cross-petition that would otherwise be untimely shall file, with proof of service as prescribed by Rule 29, 40

printed copies of a cross-petition for a writ of certiorari, which shall comply in all respects with Rule 14, except that materials printed in the appendix to the original petition need not be reprinted, and shall pay the docket fee pursuant to Rule 38. The cover of the petition shall clearly indicate that it is a cross-petition. The cross-petition will then be placed on the docket subject, however, to the provisions of Rule 13.5. It shall be the duty of counsel for the cross-petitioner to notify the cross-respondent, on a form supplied by the Clerk, of the date of docketing and of the docket number of the cross-petition. The notice shall be served as required by Rule 29. A cross-petition for a writ of certiorari may not be joined with any other pleading, and the Clerk shall not accept any pleading so joined. The time for filing a cross-petition may not be extended.

.4. All parties to the proceeding in the court whose judgment is sought to be reviewed shall be deemed parties in this Court, unless the petitioner notifies the Clerk of this Court in writing of the petitioner's belief that one or more of the parties below has no interest in the outcome of the petition. A copy of the notice shall be served as required by Rule 29 on all parties to the proceeding below. A party noted as no longer interested may remain a party by promptly notifying the Clerk, with service on the other parties, of an intention to remain a party. All parties other than petitioners shall be respondents, but any respondent who supports the position of a petitioner shall meet the time schedule for filing papers which is provided for that petitioner, except that a response to the petition shall be filed within 20 days after its receipt, and the time may not be extended.

.5. The clerk of the court having possession of the record shall retain custody thereof pending notification from the Clerk of this Court that the record is to be certified and transmitted to this Court. When requested by the Clerk of this Court to certify and transmit the record, or any part of it, the clerk of the court having possession of the record shall number the documents to be certified and shall transmit therewith a numbered list specifically identifying each document transmitted. If the record, or stipulated portions thereof, has been printed for the use of the court below, that printed record, plus the proceedings in the court below, may be certified as the record unless one of the parties or the Clerk of this Court otherwise requests. The record may consist of certified copies, but the presiding judge of the lower court who believes that original papers of any kind should be seen by this Court may, by order, make provision for their transport, safekeeping, and return.

Rule 13. Review on Certiorari; Time for Petitioning

.1. A petition for a writ of certiorari to review a judgment in any case, civil or criminal, entered by a state court of last resort, a United States court of appeals, or the United States Court of Military Appeals shall be deemed in time when it is filed with the Clerk of this Court within 90 days after the entry of the judgment. A petition for a writ of certiorari seeking review of a judgment of a lower state court which is subject to discretionary review by the state court of last resort shall be deemed in time when it is filed with the Clerk within 90 days after the entry of the order denying discretionary review.

.2. A Justice of this Court, for good cause shown, may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days.

.3. The Clerk will refuse to receive any petition for a writ of certiorari which is jurisdictionally out of time.

.4. The time for filing a petition for a writ of certiorari runs from the date the judgment or decree sought to be reviewed is rendered, and not from the date of the issuance of the mandate (or its equivalent under local practice). However, if a petition for rehearing is timely filed in the lower court by any party in the case, the time for filing the petition for a writ of certiorari for all parties (whether or not they requested rehearing or joined in the petition for rehearing) runs from the date of the denial of the petition for rehearing or the entry of a subsequent judgment. A suggestion made to a United States court of appeals for a rehearing in banc pursuant to Rule 35(b), Federal Rules of Appellate Procedure, is not a petition for rehearing within the meaning of this Rule.

.5. A cross-petition for a writ of certiorari shall be deemed in time when it is filed with the Clerk as provided in paragraphs .1, .2, and .4 of this Rule, or in Rule 12.3. However, a cross-petition which, except for Rule 12.3, would be untimely, will not be granted unless a timely petition for a writ of certiorari of another party to the case is granted.

.6. An application to extend the time to file a petition for a writ of certiorari must set out the grounds on which the jurisdiction of this Court is invoked, must identify the judgment sought to be reviewed and have appended thereto a copy of the opinion and any order respecting rehearing, and must set forth with specificity the reasons why the granting of an extension of time is thought justified. For the time and manner of presenting the application, see Rules 21, 22, and 30. An application to extend the time to file a petition for a writ of certiorari is not favored.

References in Text

Federal Rules of Appellate Procedure, referred to in par. (4), are set out in this Appendix.

Rule 14. Content of the Petition for a Writ of Certiorari

.1. The petition for a writ of certiorari shall contain, in the order here indicated:

(a) The questions presented for review, expressed in the terms and circumstances of the case, but without unnecessary detail. The questions should be short and concise and should not be argumentative or repetitious. They must be set forth on the first page following the cover with no other information appearing on that page. The statement of any question presented will be deemed to comprise every subsidiary question fairly included therein. Only the questions set forth in the

petition, or fairly included therein, will be considered by the Court.

(b) A list of all parties to the proceeding in the court whose judgment is sought to be reviewed, unless the names of all parties appear in the caption of the case. This listing may be done in a footnote. See also Rule 29.1 for the required listing of parent companies and nonwholly owned subsidiaries.

(c) A table of contents and a table of authorities, if the petition exceeds five pages.

(d) A reference to the official and unofficial reports of opinions delivered in the case by other courts or administrative agencies.

(e) A concise statement of the grounds on which the jurisdiction of this Court is invoked showing:

(i) The date of the entry of the judgment or decree sought to be reviewed;

(ii) The date of any order respecting a rehearing, and the date and terms of any order granting an extension of time within which to file the petition for a writ of certiorari;

(iii) Express reliance upon Rule 12.3 when a cross-petition for a writ of certiorari is filed under that Rule and the date of receipt of the petition for a writ of certiorari in connection with which the cross-petition is filed; and

(iv) The statutory provision believed to confer on this Court jurisdiction to review the judgment or decree in question by writ of certiorari.

(f) The constitutional provisions, treaties, statutes, ordinances, and regulations involved in the case, setting them out verbatim, and giving the appropriate citation therefor. If the provisions involved are lengthy, their citation alone will suffice at this point and their pertinent text must be set forth in the appendix referred to in subparagraph .1(k) of this Rule.

(g) A *concise* statement of the case containing the facts material to the consideration of the questions presented.

(h) If review of a judgment of a state court is sought, the statement of the case shall also specify the stage in the proceedings, both in the court of first instance and in the appellate courts, at which the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed upon by those courts; and such pertinent quotation of specific portions of the record or summary thereof, with specific reference to the places in the record where the matter appears (*e.g.*, ruling on exception, portion of court's charge and exception thereto, assignment of errors) as will show that the federal question was timely and properly raised so as to give this Court jurisdiction to review the judgment on a writ of certiorari. When the portions of the record relied upon under this subparagraph are voluminous, they shall be included in the appendix referred to in subparagraph .1(k) of this Rule.

(i) If review of a judgment of a United States court of appeals is sought, the statement of the case shall also show the basis for federal jurisdiction in the court of first instance.

(j) A direct and concise argument amplifying the reasons relied on for the allowance of the writ. See Rule 10.

(k) An appendix containing, in the following order:

(i) The opinions, orders, findings of fact, and conclusions of law, whether written or orally given and transcribed, delivered upon the rendering of the judgment or decree by the court whose decision is sought to be reviewed.

(ii) Any other opinions, orders, findings of fact, and conclusions of law rendered in the case by courts or administrative agencies, and, if reference thereto is necessary to ascertain the grounds of the judgment or decree, of those in companion cases. Each document shall include the caption showing the name of the issuing court or agency, the title and number of the case, and the date of entry.

(iii) Any order on rehearing, including the caption showing the name of the issuing court, the title and number of the case, and the date of entry.

(iv) The judgment sought to be reviewed if the date of its entry is different from the date of the opinion or order required in subsubparagraph (i) of this subparagraph.

(v) Any other appended materials.

If what is required by subparagraphs .1(f), (h), and (k) of this Rule to be included in or filed with the petition is voluminous, it may be presented in a separate volume or volumes with appropriate covers.

.2. The petition for a writ of certiorari and the appendix thereto, whether in the same or a separate volume, shall be produced in conformity with Rule 33. The Clerk shall not accept any petition for a writ of certiorari that does not comply with this Rule and with Rule 33, except that a party proceeding *in forma pauperis* may proceed in the manner provided in Rule 39.

.3. All contentions in support of a petition for a writ of certiorari shall be set forth in the body of the petition, as provided in subparagraph .1(j) of this Rule. No separate brief in support of a petition for a writ of certiorari will be received, and the Clerk will refuse to file any petition for a writ of certiorari to which is annexed or appended any supporting brief.

.4. The petition for a writ of certiorari shall be as short as possible and may not exceed the page limitations set out in Rule 33.

.5. The failure of a petitioner to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.

Rule 15. Brief in Opposition; Reply Brief; Supplemental Brief

.1. A brief in opposition to a petition for a writ of certiorari serves an important purpose in assisting the Court in the exercise of its discretionary jurisdiction. In addition to other arguments for denying the petition, the brief in

opposition should address any perceived misstatements of fact or law set forth in the petition which have a bearing on the question of what issues would properly be before the Court if certiorari were granted. Unless this is done, the Court may grant the petition in the mistaken belief that the issues presented can be decided, only to learn upon full consideration of the briefs and record at the time of oral argument that such is not the case. Counsel are admonished that they have an obligation to the Court to point out any perceived misstatements *in the brief in opposition*, and not later. Any defect of this sort in the proceedings below that does not go to jurisdiction may be deemed waived if not called to the attention of the Court by the respondent in the brief in opposition.

.2. The respondent shall have 30 days (unless enlarged by the Court or a Justice thereof or by the Clerk pursuant to Rule 30.4) after receipt of a petition within which to file 40 printed copies of an opposing brief disclosing any matter or ground as to why the case should not be reviewed by this Court. See Rule 10. The brief in opposition shall comply with Rule 33 and with the requirements of Rule 24 governing a respondent's brief, and shall be served as prescribed by Rule 29. A brief in opposition shall not be joined with any other pleading. The Clerk shall not accept a brief which does not comply with this Rule and with Rule 33, except that a party proceeding *in forma pauperis* may proceed in the manner provided in Rule 39. If the petitioner is proceeding *in forma pauperis*, the respondent may file 12 typewritten copies of a brief in opposition prepared in the manner prescribed by Rule 34.

.3. A brief in opposition shall be as short as possible and may not exceed the page limitations set out in Rule 33.

.4. No motion by a respondent to dismiss a petition for a writ of certiorari will be received. Objections to the jurisdiction of the Court to grant a writ of certiorari may be included in the brief in opposition.

.5. Upon the filing of a brief in opposition, the expiration of the time allowed therefor, or an express waiver of the right to file, the petition and brief in opposition, if any, will be distributed by the Clerk to the Court for its consideration. However, if a cross-petition for a writ of certiorari has been filed, distribution of both it and the petition for a writ of certiorari will be delayed until the filing of a brief in opposition by the cross-respondent, the expiration of the time allowed therefor, or an express waiver of the right to file.

.6. A reply brief addressed to arguments first raised in the brief in opposition may be filed by any petitioner, but distribution and consideration by the Court under paragraph .5 of this Rule will not be delayed pending its filing. Forty copies of the reply brief, prepared in accordance with Rule 33 and served as prescribed by Rule 29, shall be filed.

.7. Any party may file a supplemental brief at any time while a petition for a writ of certiorari is pending calling attention to new cases or legislation or other intervening matter not available at the time of the party's last filing. A supplemental brief must be restricted to new matter. Forty copies of the supplemental brief, prepared in accordance with Rule 33 and served as prescribed by Rule 29, shall be filed.

Rule 16. Disposition of a Petition for a Writ of Certiorari

.1. After consideration of the papers distributed pursuant to Rule 15, the Court will enter an appropriate order. The order may be a summary disposition on the merits.

.2. Whenever a petition for a writ of certiorari to review a decision of any court is granted, the Clerk shall enter an order to that effect and shall forthwith notify the court below and counsel of record. The case will then be scheduled for briefing and oral argument. If the record has not previously been filed, the Clerk of this Court shall request the clerk of the court having possession of the record to certify it and transmit it to this Court. A formal writ shall not issue unless specially directed.

.3. Whenever a petition for a writ of certiorari to review a decision of any court is denied, the Clerk shall enter an order to that effect and shall forthwith notify the court below and counsel of record. The order of denial will not be suspended pending disposition of a petition for rehearing except by order of the Court or a Justice.

PART IV. OTHER JURISDICTION

Rule 17. Procedure in an Original Action

.1. This Rule applies only to an action within the Court's original jurisdiction under Article III of the Constitution of the United States. See also 28 U.S.C. § 1251 and the Eleventh Amendment to the Constitution of the United States. A petition for an extraordinary writ in aid of the Court's appellate jurisdiction must be filed in accordance with Rule 20.

.2. The form of pleadings and motions prescribed by the Federal Rules of Civil Procedure should be followed in an original action to be filed in this Court. In other respects those Rules, when their application is appropriate, may be taken as a guide to procedure in an original action in this Court.

.3. The initial pleading in any original action shall be prefaced by a motion for leave to file, and both the pleading and motion must be printed in conformity with Rule 33. A brief in support of the motion for leave to file, which shall also comply with Rule 33, may also be filed with the motion and pleading. Sixty copies of each document, with proof of service as prescribed by Rule 29, are required, except that when an adverse party is a State, service shall be made on both the Governor and the attorney general of that State.

.4. The case will be placed on the docket when the motion for leave to file and the pleading are filed with the Clerk. The docket fee provided by Rule 38 must be paid at that time.

.5. Within 60 days after the receipt of the motion for leave to file and the pleading, an adverse party may file, with proof of service as prescribed by Rule 29, 60 printed copies of a brief in opposition to the motion. The brief shall comply with Rule 33. When the brief in

opposition has been filed, or when the time within which it may be filed has expired, the motion, pleading, and briefs will be distributed to the Court by the Clerk. The Court may thereafter grant or deny the motion, set it down for oral argument, direct that additional pleadings be filed, or require that other proceedings be conducted.

.6. A summons issuing out of this Court in an original action shall be served on the defendant 60 days before the return day set out therein. If the defendant does not respond by the return day, the plaintiff may proceed *ex parte*.

.7. Process against a State issued from the Court in an original action shall be served on both the Governor and the attorney general of that State.

REFERENCES IN TEXT

Federal Rules of Civil Procedure, referred to in par. (2), are set out in this Appendix.

CROSS REFERENCES

Issues of fact in Supreme Court; trial by jury, see section 1872 of this title.

Rule 18. Appeal from a United States District Court

.1. A direct appeal from a decision of a United States district court, when authorized by law, is commenced by filing a notice of appeal with the clerk of the district court within 30 days after the entry of the judgment sought to be reviewed. The time may not be extended. The notice of appeal shall specify the parties taking the appeal, shall designate the judgment, or part thereof, appealed from and the date of its entry, and shall specify the statute or statutes under which the appeal is taken. A copy of the notice of appeal shall be served on all parties to the proceeding pursuant to Rule 29 and proof of service must be filed in the district court with the notice of appeal.

.2. All parties to the proceeding in the district court shall be deemed parties to the appeal, but a party having no interest in the outcome of the appeal may so notify the Clerk of this Court and shall serve a copy of the notice on all other parties. Parties interested jointly, severally, or otherwise in the judgment may appeal separately; or any two or more may join in an appeal.

.3. Not more than 60 days after the filing of the notice of appeal in the district court, counsel for the appellant shall file, with proof of service as prescribed by Rule 29, 40 printed copies of a statement as to jurisdiction and pay the docket fee prescribed by Rule 38. The jurisdictional statement shall follow, insofar as applicable, the form for a petition for a writ of certiorari prescribed by Rule 14. The appendix must also include a copy of the notice of appeal showing the date it was filed in the district court. The jurisdictional statement and the appendices thereto must be produced in conformity with Rule 33, except that a party proceeding *in forma pauperis* may proceed in the manner prescribed in Rule 39. A Justice of this Court may, for good cause shown, extend the time for filing a jurisdictional statement for a period not exceeding 60 days. An application to extend the time to file a jurisdictional statement must set out the basis of jurisdiction in this Court, must identify the judgment to be reviewed, must include a copy of the opinion, any order respecting rehearing, and the notice of appeal, and must set forth specific reasons why the granting of an extension of time is justified. For the time and manner of presenting the application, see Rules 21, 22, and 30. An application to extend the time to file a jurisdictional statement is not favored.

.4. The clerk of the district court shall retain possession of the record pending notification from the Clerk of this Court that the record is to be certified and transmitted. See Rule 12.5.

.5. After a notice of appeal has been filed, but before the case is docketed in this Court, the parties may dismiss the appeal by stipulation filed in the district court, or the district court may dismiss the appeal upon motion of the appellant and notice to all parties. If a notice of appeal has been filed, but the case has not been docketed in this Court within the time prescribed for docketing or any enlargement thereof, the district court may dismiss the appeal upon the motion of the appellee and notice to all parties and may make any order with respect to costs as may be just. If an appellee's motion to dismiss the appeal is not granted, the appellee may have the case docketed in this Court and may seek to have the appeal dismissed by filing a motion pursuant to Rule 21. If the appeal is dismissed, the Court may give judgment for costs against the appellant.

.6. Within 30 days after receipt of the jurisdictional statement, the appellee may file 40 printed copies of a motion to dismiss, to affirm, or, in the alternative, to affirm and dismiss. The motion shall comply in all respects with Rules 21 and 33, except that a party proceeding *in forma pauperis* may proceed in the manner provided in Rule 39. The Court may permit the appellee to defend a judgment on any ground that the law and record permit and that would not expand the relief granted.

.7. Upon the filing of the motion, or the expiration of the time allowed therefor, or an express waiver of the right to file, the jurisdictional statement and motion, if any, will be distributed by the Clerk to the Court for its consideration.

.8. A brief opposing a motion to dismiss or affirm may be filed by an appellant, but distribution to the Court under paragraph .7 of this Rule will not be delayed pending its receipt. Forty copies, prepared in accordance with Rule 33 and served as prescribed by Rule 29, shall be filed.

.9. Any party may file a supplemental brief at any time while a jurisdictional statement is pending, calling attention to new cases, new legislation, or other intervening matter not available at the time of the party's last filing. Forty copies, prepared in accordance with Rule 33 and served as prescribed by Rule 29, shall be filed.

.10. After consideration of the papers distributed under this Rule, the Court may summarily dispose of the appeal on the merits, note probable jurisdiction, or postpone jurisdiction to the hearing on the merits. If not disposed of sum-

marily, the case will stand for briefing and oral argument on the merits. If consideration of jurisdiction is postponed, counsel, at the outset of their briefs and at oral argument, shall address the question of jurisdiction.

CROSS REFERENCES

Direct appeals from decisions of district court of three judges, see section 1253 of this title.

Time for appeal and docketing, see section 2101 of this title.

Rule 19. Procedure on a Certified Question

.1. A United States court of appeals may certify to this Court a question or proposition of law concerning which it desires instruction for the proper decision of a case. The certificate submitted shall contain a statement of the nature of the case and the facts on which the question or proposition of law arises. Only questions or propositions of law may be certified, and they must be distinct and definite.

.2. When a case is certified by a United States court of appeals, this Court, on application or on its own motion, may consider and decide the entire matter in controversy. See 28 U.S.C. § 1254(2).

.3. When a case is certified, the Clerk will notify the respective parties and docket the case. Counsel shall then enter their appearances. After docketing, the certificate shall be submitted to the Court for a preliminary examination to determine whether the case shall be briefed, set for argument, or dismissed. No brief may be filed prior to the preliminary examination of the certificate.

.4. If the Court orders that the case be briefed or set for argument, the parties shall be notified and permitted to file briefs. The Clerk of this Court shall then request the clerk of the court from which the case originates to certify the record and transmit it to this Court. Any portion of the record to which the parties wish to direct the Court's particular attention shall be printed in a joint appendix prepared by the appellant in the court below under the procedures provided in Rule 26, but the fact that any part of the record has not been printed shall not prevent the parties or the Court from relying on it.

.5. A brief on the merits in a case on certificate shall comply with Rules 24, 25, and 33, except that the brief of the party who is the appellant below shall be filed within 45 days of the order requiring briefs or setting the case for argument.

CROSS REFERENCES

Review of orders and judgments of courts of appeals reviewing orders of Federal agencies, see section 2350 of this title.

Rule 20. Procedure on a Petition for an Extraordinary Writ

.1. The issuance by the Court of an extraordinary writ authorized by 28 U.S.C. § 1651(a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any writ under that provision, it must be shown that the writ will be in aid of the Court's appellate jurisdiction, that there are present exceptional circumstances warranting the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

.2. The petition in any proceeding seeking the issuance by this Court of a writ authorized by 28 U.S.C. §§ 1651(a), 2241, or 2254(a), shall comply in all respects with Rule 33, except that a party proceeding *in forma pauperis* may proceed in the manner provided in Rule 39. The petition shall be captioned "*In re* [name of petitioner]" and shall follow, insofar as applicable, the form of a petition for a writ of certiorari prescribed by Rule 14. All contentions in support of the petition shall be included in the petition. The case will be placed on the docket when 40 printed copies, with proof of service as prescribed by Rule 29 (subject to subparagraph .4(b) of this Rule), are filed with the Clerk and the docket fee is paid.

.3. (a) A petition seeking the issuance of a writ of prohibition, a writ of mandamus, or both in the alternative, shall set forth the name and office or function of every person against whom relief is sought and shall set forth with particularity why the relief sought is not available in any other court. There shall be appended to the petition a copy of the judgment or order in respect of which the writ is sought, including a copy of any opinion rendered in that connection, and any other paper essential to an understanding of the petition.

(b) The petition shall be served on the judge or judges to whom the writ is sought to be directed and shall also be served on every other party to the proceeding in respect of which relief is desired. The judge or judges and the other parties may, within 30 days after receipt of the petition, file 40 printed copies of a brief or briefs in opposition thereto, which shall comply fully with Rule 15. If the judge or judges who are named respondents do not desire to respond to the petition, they may so advise the Clerk and all parties by letter. All persons served shall be deemed respondents for all purposes in the proceedings in this Court.

.4. (a) A petition seeking the issuance of a writ of habeas corpus shall comply with the requirements of 28 U.S.C. §§ 2241 and 2242, and in particular with the provision in the last paragraph of § 2242 requiring a statement of the "reasons for not making application to the district court of the district in which the applicant is held." If the relief sought is from the judgment of a state court, the petition shall set forth specifically how and wherein the petitioner has exhausted available remedies in the state courts or otherwise comes within the provisions of 28 U.S.C. § 2254(b). To justify the granting of a writ of habeas corpus, the petitioner must show exceptional circumstances warranting the exercise of the Court's discretionary powers and must show that adequate relief cannot be obtained in any other form or from any other court. These writs are rarely granted.

(b) Proceedings under this paragraph .4 will be *ex parte*, unless the Court requires the respondent to show cause why the petition for a writ of habeas corpus should not be granted. A response, if ordered, shall comply fully with

Rule 15. Neither the denial of the petition, without more, nor an order of transfer to a district court under the authority of 28 U.S.C. § 2241(b), is an adjudication on the merits, and therefore does not preclude further application to another court for the relief sought.

.5. When a brief in opposition under subparagraph .3(b) has been filed, when a response under subparagraph .4(b) has been ordered and filed, when the time within which it may be filed has expired, or upon an express waiver of the right to file, the papers will be distributed to the Court by the Clerk.

.6. If the Court orders the case to be set for argument, the Clerk will notify the parties whether additional briefs are required, when they must be filed, and, if the case involves a petition for a common law writ of certiorari, that the parties shall proceed to print a joint appendix pursuant to Rule 26.

PART V. MOTIONS AND APPLICATIONS

Rule 21. Motions to the Court

.1. Every motion to the Court shall clearly state its purpose and the facts on which it is based and (except for a motion to dismiss or affirm under Rule 18) may present legal argument in support thereof. No separate brief may be filed. A motion shall be as short as possible and shall comply with any applicable page limits. For an application addressed to a single Justice, see Rule 22.

.2. (a) A motion in any action within the Court's original jurisdiction shall comply with Rule 17.3.

(b) A motion to dismiss or affirm under Rule 18, a motion to dismiss as moot (or a suggestion of mootness), a motion for permission to file a brief *amicus curiae*, and any motion the granting of which would be dispositive of the entire case or would affect the final judgment to be entered (other than a motion to docket and dismiss under Rule 18.5 or a motion for voluntary dismissal under Rule 46) shall be printed in accordance with Rule 33 and shall comply with all other requirements of that Rule. Forty copies of the motion shall be filed.

(c) Any other motion to the Court may be typewritten in accordance with Rule 34, but the Court may subsequently require the motion to be printed by the moving party in the manner provided by Rule 33.

.3. A motion to the Court shall be filed with the Clerk and must be accompanied by proof of service as provided by Rule 29. No motion shall be presented in open court, other than a motion for admission to the Bar, except when the proceeding to which it refers is being argued. Oral argument will not be permitted on any motion unless the Court so directs.

.4. A response to a motion shall be made as promptly as possible considering the nature of the relief asked and any asserted need for emergency action, and, in any event, shall be made within 10 days of receipt, unless otherwise ordered by the Court or a Justice or by the Clerk under the provisions of Rule 30.4. A response to a printed motion shall be printed if time permits. In an appropriate case, however, the Court may act on a motion without waiting for a response.

Rule 22. Applications to Individual Justices

.1. An application addressed to an individual Justice shall be submitted to the Clerk, who will promptly transmit it to the Justice concerned.

.2. The original and two copies of any application addressed to an individual Justice shall be filed in the form prescribed by Rule 34, and shall be accompanied by proof of service on all parties.

.3. The Clerk in due course will advise all counsel concerned, by means as speedy as may be appropriate, of the disposition made of the application.

.4. The application shall be addressed to the Justice allotted to the Circuit within which the case arises. When the Circuit Justice is unavailable for any reason, the application addressed to that Justice will be distributed to the Justice then available who is next junior to the Circuit Justice; the turn of the Chief Justice follows that of the most junior Justice.

.5. A Justice denying the application will note the denial thereon. Thereafter, unless action thereon is restricted by law to the Circuit Justice or is out of time under Rule 30.2, the party making the application, except in the case of an application for an extension of time, may renew it to any other Justice, subject to the provisions of this Rule. Except when the denial has been without prejudice, a renewed application is not favored. Any renewed application may be made by sending a letter to the Clerk of the Court addressed to another Justice to which must be attached 12 copies of the original application, together with proof of service pursuant to Rule 29.

.6. A Justice to whom an application for a stay or for bail is submitted may refer it to the Court for determination.

Cross References

Allotment of Supreme Court justices to circuits, see section 42 of this title.

Rule 23. Stays

.1. A stay may be granted by a Justice of this Court as permitted by law.

.2. A petitioner entitled thereto may present to a Justice of this Court an application to stay the enforcement of the judgment sought to be reviewed on writ of certiorari. 28 U.S.C. § 2101(f).

.3. An application for a stay must set forth with particularity why the relief sought is not available from any other court or judge thereof. Except in the most extraordinary circumstances, an application for a stay will not be entertained unless the relief requested has first been sought in the appropriate court or courts below or from a judge or judges thereof. An application for a stay must identify the judgment sought to be reviewed and have appended thereto a copy of the order and opinion, if any, and a copy of the order, if any, of the court or judge below denying the relief sought, and must set forth with specificity the reasons why the granting of a stay is deemed justified. The

form and content of an application for a stay are governed by Rule 22.

.4. The judge, court, or Justice granting an application for a stay pending review by this Court may condition the stay on the filing of a supersedeas bond having an approved surety or sureties. The bond shall be conditioned on the satisfaction of the judgment in full, together with any costs, interest, and damages for delay that may be awarded. If a part of the judgment sought to be reviewed has already been satisfied, or is otherwise secured, the bond may be conditioned on the satisfaction of the part of the judgment not otherwise secured or satisfied, together with costs, interest, and damages.

CROSS REFERENCES

United States, security for costs or damages not required, see section 2408 of this title.

PART VI. BRIEFS ON THE MERITS AND ORAL ARGUMENT

Rule 24. Brief on the Merits; In General

.1. A brief of a petitioner or an appellant on the merits must comply in all respects with Rule 33, and must contain in the order here indicated:

(a) The questions presented for review, stated as required by Rule 14. The phrasing of the questions presented need not be identical with that set forth in the petition for a writ of certiorari or the jurisdictional statement, but the brief may not raise additional questions or change the substance of the questions already presented in those documents. At its option, however, the Court may consider a plain error not among the questions presented but evident from the record and otherwise within its jurisdiction to decide.

(b) A list of all parties to the proceeding in the court whose judgment is sought to be reviewed, unless the caption of the case in this Court contains the names of all parties. This listing may be done in a footnote. See also Rule 29.1, which requires a list of parent companies and nonwholly owned subsidiaries.

(c) A table of contents and a table of authorities, if the brief exceeds five pages.

(d) Citations of the opinions and judgments delivered in the courts below.

(e) A concise statement of the grounds on which the jurisdiction of this Court is invoked, with citation of the statutory provision and of the time factors upon which jurisdiction rests.

(f) The constitutional provisions, treaties, statutes, ordinances, and regulations which the case involves, setting them out verbatim and giving the appropriate citation therefor. If the provisions involved are lengthy, their citation alone will suffice at this point, and their pertinent text, if not already set forth in the petition for a writ of certiorari, jurisdictional statement, or an appendix to either document, shall be set forth in an appendix to the brief.

(g) A concise statement of the case containing all that is material to the consideration of the questions presented, with appropriate references to the joint appendix, *e.g.* (J.A. 12) or to the record, *e.g.* (R. 12).

(h) A summary of the argument, suitably paragraphed, which should be a succinct, but accurate and clear, condensation of the argument actually made in the body of the brief. A mere repetition of the headings under which the argument is arranged is not sufficient.

(i) The argument, exhibiting clearly the points of fact and of law being presented and citing the authorities and statutes relied upon.

(j) A conclusion, specifying with particularity the relief which the party seeks.

.2. The brief filed by a respondent or an appellee must conform to the foregoing requirements, except that no statement of the case need be made beyond what may be deemed necessary to correct any inaccuracy or omission in the statement by the other side. Items required by subparagraphs .1(a), (b), (d), (e), and (f) of this Rule need not be included unless the respondent or appellee is dissatisfied with their presentation by the other side.

.3. A brief on the merits shall be as short as possible and shall not exceed the page limitations set out in Rule 33. An appendix to a brief must be limited to relevant material, and counsel are cautioned not to include in an appendix arguments or citations that properly belong in the body of the brief.

.4. A reply brief shall conform to those portions of this Rule that are applicable to the brief of a respondent or an appellee, but, if appropriately divided by topical headings, need not contain a summary of the argument.

.5. A reference to the joint appendix or to the record set forth in any brief must be accompanied by the appropriate page number. If the reference is to an exhibit, the page numbers at which the exhibit appears, at which it was offered in evidence, and at which it was ruled on by the judge must be indicated, *e.g.* (Pl.Ex. 14; R.199, 2134).

.6. A brief must be compact, logically arranged with proper headings, concise, and free from burdensome, irrelevant, immaterial, and scandalous matter. A brief not complying with this paragraph may be disregarded and stricken by the Court.

Rule 25. Brief on the Merits; Time for Filing

.1. Counsel for the petitioner or appellant shall file with the Clerk 40 copies of a brief on the merits within 45 days of the order granting the writ of certiorari or of the order noting or postponing probable jurisdiction.

.2. Forty copies of the brief of the respondent or appellee must be filed with the Clerk within 30 days after the receipt of the brief filed by the petitioner or appellant.

.3. A reply brief, if any, must be filed within 30 days after receipt of the brief for the respondent or appellee, or must actually be received by the Clerk not later than one week before the date of oral argument, whichever is earlier. Forty copies are required.

.4. The periods of time stated in paragraphs .1 and .2 of this Rule may be enlarged as provided in Rule 30. If a case is advanced for hearing, the time for filing briefs on the merits may be abridged as circumstances require pursuant to the order of the Court on its own motion or a party's application.

.5. A party desiring to present late authorities, newly enacted legislation, or other intervening matter that was not available in time to have been included in a brief may file 40 printed copies of a supplemental brief, restricted to new matter and otherwise presented in conformity with these Rules, up to the time the case is called for oral argument, or by leave of the Court thereafter.

.6. No brief will be received through the Clerk or otherwise after a case has been argued or submitted, except from a party and upon leave of the Court.

.7. No brief will be received by the Clerk unless it is accompanied by proof of service as required by Rule 29.

Rule 26. The Joint Appendix

.1. Unless the parties agree to use the deferred method allowed in paragraph .4 of this Rule, or the Court so directs, the petitioner or appellant, within 45 days after the entry of the order granting the writ of certiorari, or noting or postponing jurisdiction, shall file 40 copies of a joint appendix, printed as prescribed by Rule 33. The joint appendix shall contain: (1) the relevant docket entries in all the courts below; (2) any relevant pleading, jury instruction, finding, conclusion, or opinion; (3) the judgment, order, or decision sought to be reviewed; and (4) any other parts of the record which the parties particularly wish to bring to the Court's attention. Any of the foregoing items which have already been reproduced in a petition for a writ of certiorari, jurisdictional statement, brief in opposition to a petition for a writ of certiorari, motion to dismiss or affirm, or any appendix to the foregoing complying with Rule 33 need not be reproduced again in the joint appendix. The petitioner or appellant shall serve three copies of the joint appendix on each of the other parties to the proceeding.

.2. The parties are encouraged to agree to the contents of the joint appendix. In the absence of agreement, the petitioner or appellant shall, not later than 10 days after receipt of the order granting the writ of certiorari, or noting or postponing jurisdiction, serve on the respondent or appellee a designation of parts of the record to be included in the joint appendix. A respondent or appellee who deems the parts of the record so designated not to be sufficient shall, within 10 days after receipt of the designation, serve upon the petitioner or appellant a designation of additional parts to be included in the joint appendix, and the petitioner or appellant shall include the parts so designated. If the respondent or appellee has been permitted by this Court to proceed *in forma pauperis*, the petitioner or appellant may seek by motion to be excused from printing portions of the record deemed unnecessary.

In making these designations, counsel should include only those materials the Court should examine. Unnecessary designations should be avoided. The record is on file with the Clerk and available to the Justices. Counsel may refer in their briefs and in oral argument to relevant portions of the record not included in the joint appendix.

.3. When the joint appendix is filed, the petitioner or appellant shall immediately file with the Clerk a statement of the cost of printing 50 copies and shall serve a copy of the statement on each of the other parties to the proceeding pursuant to Rule 29. Unless the parties otherwise agree, the cost of producing the joint appendix shall initially be paid by the petitioner or appellant; but a petitioner or appellant who considers that parts of the record designated by the respondent or appellee are unnecessary for the determination of the issues presented may so advise the respondent or appellee who then shall advance the cost of printing the additional parts, unless the Court or a Justice otherwise fixes the initial allocation of the costs. The cost of printing the joint appendix shall be taxed as costs in the case, but if a party unnecessarily causes matter to be included in the joint appendix or prints excessive copies, the Court may impose the costs thereof on that party.

.4. (a) If the parties agree, or if the Court shall so order, preparation of the joint appendix may be deferred until after the briefs have been filed. In that event, the petitioner or appellant shall file the joint appendix within 14 days after receipt of the brief of the respondent or appellee. The provisions of paragraphs .1, .2, and .3 of this Rule shall be followed, except that the designations referred to therein shall be made by each party when that party's brief is served.

(b) If the deferred method is used, the briefs may make reference to the pages of the record involved. In that event, the printed joint appendix must also include in brackets on each page thereof the page number of the record where that material may be found. A party desiring to refer directly to the pages of the joint appendix may serve and file typewritten or page-proof copies of the brief within the time required by Rule 25, with appropriate references to the pages of the record involved. In that event, within 10 days after the joint appendix is filed, copies of the brief in the form prescribed by Rule 33 containing references to the pages of the joint appendix, in place of or in addition to the initial references to the pages of the record involved, shall be served and filed. No other change may be made in the brief as initially served and filed, except that typographical errors may be corrected.

.5. The joint appendix must be prefaced by a table of contents showing the parts of the record which it contains, in the order in which the parts are set out therein, with references to the pages of the joint appendix at which each part begins. The relevant docket entries must be set out following the table of contents. Thereafter, the other parts of the record shall be set out in chronological order. When testimony contained in the reporter's transcript of proceedings is set out in the joint appendix, the page of the transcript at which the testimony

appears shall be indicated in brackets immediately before the statement which is set out. Omissions in the transcript or in any other document printed in the joint appendix must be indicated by asterisks. Immaterial formal matters (captions, subscriptions, acknowledgments, etc.) shall be omitted. A question and its answer may be contained in a single paragraph.

.6. Exhibits designated for inclusion in the joint appendix may be contained in a separate volume or volumes suitably indexed. The transcript of a proceeding before an administrative agency, board, commission, or officer used in an action in a district court or court of appeals shall be regarded as an exhibit for the purposes of this paragraph.

.7. The Court by order may dispense with the requirement of a joint appendix and may permit a case to be heard on the original record (with such copies of the record, or relevant parts thereof, as the Court may require), or on the appendix used in the court below, if it conforms to the requirements of this Rule.

.8. For good cause shown, the time limits specified in this Rule may be shortened or enlarged by the Court, by a Justice thereof, or by the Clerk under the provisions of Rule 30.4.

Rule 27. The Calendar

.1. The Clerk shall from time to time prepare calendars of cases ready for argument. A case will not normally be called for argument less than two weeks after the brief of the respondent or appellee is due.

.2. The Clerk will advise counsel when they are required to appear for oral argument and will publish a hearing list in advance of each argument session for the convenience of counsel and the information of the public.

.3. On the Court's own motion, or on motion of one or more parties, the Court may order that two or more cases, involving what appear to be the same or related questions, be argued together as one case or on any other terms as may be prescribed.

CROSS REFERENCES

Priority on docket of criminal cases from State court, see section 2102 of this title.

Rule 28. Oral Argument

.1. Oral argument should emphasize and clarify the written arguments appearing in the briefs on the merits. Counsel should assume that all Justices of the Court have read the briefs in advance of oral argument. *The Court looks with disfavor on oral argument read from a prepared text.*

.2. The petitioner or appellant is entitled to open and conclude the argument. A cross-writ of certiorari shall be argued with the initial writ of certiorari as one case in the time allowed for that one case and the Court will advise the parties who will open and close.

.3. Unless otherwise directed, one-half hour on each side is allowed for argument. Counsel is not required to use all the allotted time. A request for additional time to argue must be presented by a motion to the Court under Rule 21 not later than 15 days after service of the petitioner's or appellant's brief on the merits and shall set forth with specificity and conciseness why the case cannot be presented within the half-hour limitation. Additional time is rarely accorded.

.4. Only one attorney will be heard for each side, except by special permission granted upon a request presented not later than 15 days after service of the petitioner's or appellant's brief on the merits. The request must be presented by a motion to the Court under Rule 21 and shall set forth with specificity and conciseness why more than one attorney should argue. Divided argument is not favored.

.5. In any case, and regardless of the number of counsel participating, counsel having the opening must present the case fairly and completely and not reserve points of substance for rebuttal.

.6. Oral argument will not be allowed on behalf of any party for whom no brief has been filed.

.7. By leave of the Court, and subject to paragraph .4 of this Rule, counsel for an *amicus curiae* whose brief has been duly filed pursuant to Rule 37 may, with the consent of a party, argue orally on the side of that party. In the absence of consent, counsel for an *amicus curiae* may orally argue only by leave of the Court on a motion particularly setting forth why oral argument is thought to provide assistance to the Court not otherwise available. The motion will be granted only in the most extraordinary circumstances.

PART VII. PRACTICE AND PROCEDURE

Rule 29. Filing and Service of Documents; Special Notifications

.1. Any pleading, motion, notice, brief, or other document or paper required or permitted to be presented to this Court, or to a Justice, shall be filed with the Clerk. Every document, except a joint appendix or brief *amicus curiae*, filed by or on behalf of one or more corporations, shall include a list naming all parent companies and subsidiaries (except wholly owned subsidiaries) of each corporation. This listing may be done in a footnote. If there is no parent or subsidiary company to be listed, a notation to this effect shall be included in the document. If a list has been included in a document filed earlier in the particular case, reference may be made to the earlier document and only amendments to the listing to make it currently accurate need to be included in the document currently being filed.

.2. To be timely filed, a document must actually be received by the Clerk within the time specified for filing; or be sent to the Clerk by first-class mail, postage prepaid, and bear a postmark showing that the document was mailed on or before the last day for filing; or, if being filed by an inmate confined in an institution, be deposited in the institution's internal mail system on or before the last day for filing and be accompanied by a notarized statement or declaration in compliance with 28 U.S.C. § 1746 setting forth the date of deposit and stating that first-class postage has been prepaid. If the postmark is missing or not legible,

the Clerk shall require the person who mailed the document to submit a notarized statement or declaration in compliance with 28 U.S.C. § 1746 setting forth the details of the mailing and stating that the mailing took place on a particular date within the permitted time. A document forwarded through a private delivery or courier service must be received by the Clerk within the time permitted for filing.

.3. Any pleading, motion, notice, brief, or other document required by these Rules to be served may be served personally or by mail on each party to the proceeding at or before the time of filing. If the document has been produced under Rule 33, three copies shall be served on each other party separately represented in the proceeding. If the document is typewritten pursuant to Rule 34, service of a single copy on each other party separately represented shall suffice. If personal service is made, it may consist of delivery at the office of counsel of record, either to counsel or to an employee therein. If service is by mail, it shall consist of depositing the document in a United States post office or mailbox, with first-class postage prepaid, addressed to counsel of record at the proper post office address. When a party is not represented by counsel, service shall be made upon the party, personally or by mail.

.4. (a) If the United States or any department, office, agency, officer, or employee thereof is a party to be served, service must also be made upon the Solicitor General, Department of Justice, Washington, D.C. 20530. If a response by the Solicitor General is required or permitted within a prescribed period after service, the time does not begin to run until the document actually has been received by the Solicitor General's office. When an agency of the United States is authorized by law to appear on its own behalf as a party, or when an officer or employee of the United States is a party, the agency, officer, or employee must also be served, in addition to the Solicitor General; and if a response is required or permitted within a prescribed period, the time does not begin to run until the document actually has been received by the agency, the officer, the employee, and the Solicitor General's office.

(b) In any proceeding in this Court wherein the constitutionality of an Act of Congress is drawn in question, and the United States or any department, office, agency, officer, or employee thereof is not a party, the initial pleading, motion, or paper filed in this Court shall recite that 28 U.S.C. § 2403(a) may be applicable, and the document must be served on the Solicitor General, Department of Justice, Washington, D.C. 20530. In a proceeding from any court of the United States, as defined by 28 U.S.C. § 451, the initial pleading, motion, or paper shall also state whether or not that court, pursuant to 28 U.S.C. § 2403(a), has certified to the Attorney General the fact that the constitutionality of an Act of Congress was drawn into question.

(c) In any proceeding in this Court wherein the constitutionality of any statute of a State is drawn into question, and the State or any agency, officer, or employee thereof is not a party, the initial pleading, motion, or paper filed in this Court shall recite that 28 U.S.C. § 2403(b) may be applicable and shall be served upon the attorney general of that State. In a proceeding from any court of the United States, as defined by 28 U.S.C. § 451, the initial pleading, motion, or paper shall state whether or not that court, pursuant to 28 U.S.C. § 2403(b), has certified to the state attorney general the fact that the constitutionality of a statute of that State was drawn into question.

.5. Proof of service, when required by these Rules, must accompany the document when it is presented to the Clerk for filing and must be separate from it. Proof of service may be shown by any one of the methods set forth below, and must contain, or be accompanied by, a statement that all parties required to be served have been served, together with a list of the names, addresses, and telephone numbers of counsel indicating the name of the party or parties each counsel represents. It is not necessary that service on each party required to be served be made in the same manner or evidenced by the same proof.

(a) By an acknowledgment of service of the document in question, signed by counsel of record for the party served.

(b) By a certificate of service of the document in question, reciting the facts and circumstances of service in compliance with the appropriate paragraph or paragraphs of this Rule, and signed by a member of the Bar of this Court representing the party on whose behalf service is made.

(c) By a notarized affidavit or declaration in compliance with 28 U.S.C. § 1746, reciting the facts and circumstances of service in accordance with the appropriate paragraph or paragraphs of this Rule, whenever service is made by any person not a member of the Bar of this Court.

Rule 30. Computation and Enlargement of Time

.1. In computing any period of time prescribed or allowed by these Rules, by order of the Court, or by an applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, a Sunday, a federal legal holiday, or a day on which the Court building has been closed by order of the Court or the Chief Justice, in which event the period extends until the end of the next day which is not a Saturday, a Sunday, a federal legal holiday, or a day on which the Court building has been closed. See 5 U.S.C. § 6103 for a list of federal legal holidays.

.2. Whenever a Justice of this Court or the Clerk is empowered by law or these Rules to extend the time for filing any document or paper, an application seeking an extension must be presented to the Clerk within the period sought to be extended. However, an application for an extension of time to file a petition for a writ of certiorari or to docket an appeal must be submitted at least 10 days before the specified final filing date. If received less than 10 days before the final filing date,

the application will not be granted except in the most extraordinary circumstances.

.3. An application to extend the time within which a party may file a petition for a writ of certiorari or docket an appeal shall be presented in the form prescribed by Rules 13.6 and 18.3, respectively. An application to extend the time within which to file any other document or paper may be presented in the form of a letter to the Clerk setting forth with specificity the reasons why the granting of an extension of time is justified. Any application seeking an extension of time must be presented and served upon all other parties as provided in Rule 22, and, once denied, may not be renewed.

.4. An application to extend the time for filing a brief, motion, joint appendix, or other paper, for designating parts of a record to be printed in the appendix, or for complying with any other time limit provided by these Rules (except an application for an extension of time to file a petition for a writ of certiorari, to docket an appeal, to file a reply brief on the merits, to file a petition for rehearing, or to issue a mandate forthwith) shall in the first instance be acted upon by the Clerk, whether addressed to the Clerk, to the Court, or to a Justice. Any party aggrieved by the Clerk's action on an application to extend time may request that it be submitted to a Justice or to the Court. The Clerk shall report action under this Rule to the Court in accordance with instructions that may be issued by the Court.

Rule 31. Translations

Whenever any record to be transmitted to this Court contains any material written in a foreign language without a translation made under the authority of the lower court, or admitted to be correct, the clerk of the court transmitting the record shall immediately advise the Clerk of this Court to the end that this Court may order that a translation be supplied and, if necessary, printed as a part of the joint appendix.

Rule 32. Models, Diagrams, and Exhibits

.1. Models, diagrams, and exhibits of material forming part of the evidence taken in a case, and brought to this Court for its inspection, shall be placed in the custody of the Clerk at least two weeks before the case is to be heard or submitted.

.2. All models, diagrams, and exhibits of material placed in the custody of the Clerk must be removed by the parties within 40 days after the case is decided. When this is not done, the Clerk shall notify counsel to remove the articles forthwith. If they are not removed within a reasonable time thereafter, the Clerk shall destroy them or make any other appropriate disposition of them.

Rule 33. Printing Requirements

.1. (a) Except for papers permitted by Rules 21, 22, and 39 to be submitted in typewritten form (see Rule 34), every document filed with the Court must be printed by a standard typographic printing process or be typed and reproduced by offset printing, photocopying, computer printing, or similar process. The process used must produce a clear, black image on white paper. In an original action under Rule 17, 60 copies of every document printed under this Rule must be filed; in all other cases, 40 copies must be filed.

(b) The text of every document, including any appendix thereto, produced by standard typographic printing must appear in print as 11-point or larger type with 2-point or more leading between lines. The print size and typeface of the United States Reports from Volume 453 to date are acceptable. Similar print size and typeface should be standard throughout. No attempt should be made to reduce or condense the typeface in a manner that would increase the content of a document. Footnotes must appear in print as 9-point or larger type with 2-point or more leading between lines. A document must be printed on both sides of the page.

(c) The text of every document, including any appendix thereto, printed or duplicated by any process other than standard typographic printing shall be done in pica type at no more than 10 characters per inch. The lines must be double spaced. The right-hand margin need not be justified, but there must be a margin of at least three-fourths of an inch. In footnotes, elite type at no more than 12 characters per inch may be used. The document should be printed on both sides of the page, if practicable. It shall not be reduced in duplication. A document which is photographically reduced so that the print size is smaller than pica type will not be received by the Clerk.

(d) Whether printed under subparagraph (b) or (c) of this paragraph, every document must be produced on opaque, unglazed paper 6⅛ by 9¼ inches in size, with type matter approximately 4⅛ by 7⅛ inches and margins of at least three-fourths of an inch on all sides. The document must be firmly bound in at least two places along the left margin (saddle stitch or perfect binding preferred) so as to make an easily opened volume, and no part of the text shall be obscured by the binding. Spiral and other plastic bindings may not be used. Appendices in patent cases may be duplicated in such size as is necessary to utilize copies of patent documents.

.2. Every document must bear on the cover, in the following order, from the top of the page: (1) the number of the case or, if there is none, a space for one; (2) the name of this Court; (3) the Term; (4) the caption of the case as appropriate in this Court; (5) the nature of the proceeding and the name of the court from which the action is brought (*e.g.*, "Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit"; or, for a merits brief, "On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit"); (6) the title of the paper (*e.g.*, "Petition for Writ of Certiorari," "Brief for Respondent," "Joint Appendix"); (7) the name of the member of the Bar of this Court who is counsel of record for the party concerned, and upon whom

service is to be made, with a notation directly thereunder that the attorney is the counsel of record together with counsel's office address and telephone number. (There can be only one counsel of record noted on a single document.) The individual names of other members of the Bar of this Court, or of the Bar of the highest court of a State, and, if desired, their post office addresses, may be added, but counsel of record must be clearly identified. Names of persons other than attorneys admitted to a state Bar may not be listed. The foregoing must be displayed in an appropriate typographic manner and, except for the identification of counsel, may not be set in type smaller than 11-point or uppercase pica.

.3. Every document produced under this Rule shall comply with the page limits shown below and shall have a suitable cover consisting of heavy paper in the color indicated. Counsel must be certain that there is adequate contrast between the printing and the color of the cover.

Type of Document	Page Limits: Typographic Printing	Page Limits: Typed and Double Spaced	Color of the Cover
a. Petition for a Writ of Certiorari (Rule 14.4); Jurisdictional Statement (Rule 18.3); or Petition for an Extraordinary Writ (Rule 20.2)	30	65	White
b. Brief in Opposition (Rule 15.3); Motion to Dismiss or Affirm (Rule 18.6); Brief in Opposition to Mandamus or Prohibition (Rule 20.3(b)); or Response to a Petition for Habeas Corpus (Rule 20.4)	30	65	Orange
c. Reply to Brief in Opposition (Rule 15.6); or Brief Opposing a Motion to Dismiss or Affirm (Rule 18.6)	10	20	Tan
d. Supplemental Brief (Rules 15.7 and 18.9)	10	20	Tan
e. Brief on the Merits by Petitioner or Appellant (Rule 24.3)	50	110	Light Blue
f. Brief on the Merits by Respondent or Appellee (Rule 24.3)	50	110	Light Red
g. Reply Brief on the Merits (Rule 24.4)	20	45	Yellow
h. Brief of an *Amicus Curiae* at the Petition Stage (Rule 37.2)	20	45	Cream
i. Brief of an *Amicus Curiae* on the Merits in Support of the Petitioner or Appellant or in Support of Neither Party (Rule 37.3)	30	65	Pastel or Pale Green
j. Brief of an *Amicus Curiae* on the Merits in Support of the Respondent or Appellee (Rule 37.3)	30	65	Green
k. Petition for Rehearing (Rule 44)	10	20	Tan

The above page limitations are exclusive of the questions presented page, the subject index, the table of authorities, and the appendix. Verbatim quotations required by Rule 14.1(f), if set forth in the text of the brief rather than the appendix, are also excluded. A motion for leave to file a brief *amicus curiae* filed pursuant to Rule 37 must be printed with the brief.

A document filed by the United States, by any department, office, or agency of the United States, or by any officer or employee of the United States represented by the Solicitor General shall have a gray cover.

A joint appendix and any other document shall have a tan cover.

In a case filed under the original jurisdiction of the Court, the initial pleading and motion for leave to file and any accompanying brief shall have white covers. A brief in opposition to the motion for leave to file shall have an orange cover; exceptions to the report of a special master shall have a light blue cover, if filed by the plaintiff, and a light red cover, if filed by any other party; and a reply brief to any exceptions shall have a yellow cover.

.4. The Court or a Justice, for good cause shown, may grant leave to file a document in excess of the page limits, but these applications are not favored. An application to exceed page limits shall comply in all respects with Rule 22 and must be submitted at least 15 days before the filing date of the document in question, except in the most extraordinary circumstances.

.5. Every document which exceeds five pages (other than a single joint appendix) shall, regardless of the method of duplication, contain a table of contents and a table of authorities (*i.e.*, cases alphabetically arranged, constitutional provisions, statutes, textbooks, etc.) with correct references to the pages in the document where they are cited.

.6. The body of every document at its close shall bear the name of counsel of record and such other counsel, identified on the cover of the document in conformity with paragraph .2(7) of this Rule, as may be desired. One copy

of every motion or application (other than a motion to dismiss or affirm under Rule 18) must in addition be signed by counsel of record at the end thereof.

.7. The Clerk shall not accept for filing any document presented in a form not in compliance with this Rule, but shall return it indicating to the defaulting party any failure to comply. The filing, however, shall not thereby be deemed untimely provided that new and proper copies are promptly substituted. If the Court finds that the provisions of this Rule have not been adhered to, it may impose, in its discretion, appropriate sanctions including but not limited to dismissal of the action, imposition of costs, or disciplinary sanction upon counsel.

Rule 34. Form of Typewritten Papers

.1. Any paper specifically permitted by these Rules to be presented to the Court without being printed shall, subject to Rule 39.3, be typewritten on opaque, unglazed paper 8½ x 11 inches in size and shall be stapled or bound at the upper left-hand corner. The typed matter, except quotations, must be double spaced. Copies, if required, must be produced on the same type of paper. All copies presented to the Court must be legible.

.2. The original of any motion or application (except a motion to dismiss or affirm under Rule 18.6) must be signed in manuscript by the party proceeding *pro se* or by counsel of record who must be a member of the Bar of this Court.

Rule 35. Death, Substitution, and Revivor; Public Officers

.1. In the event a party dies after filing a notice of appeal to this Court, or after filing a petition for a writ of certiorari, the authorized representative of the deceased party may appear and, upon motion, be substituted as a party to the proceeding. If the representative does not voluntarily become a party, any other party may suggest the death on the record and on motion seek an order requiring the representative to become a party within a designated time. If the representative then fails to become a party, the party so moving, if a respondent or appellee, shall be entitled to have the petition for a writ of certiorari or the appeal dismissed or the judgment vacated for mootness, as may be appropriate. A party so moving who is a petitioner or appellant shall be entitled to proceed as in any other case of nonappearance by a respondent or appellee. The substitution of a representative of the deceased, or the suggestion of death by a party, must be made within six months after the death of the party, or the case shall abate.

.2. Whenever a case cannot be revived in the court whose judgment is sought to be reviewed because the deceased party has no authorized representative within the jurisdiction of that court, but does have an authorized representative elsewhere, proceedings shall be conducted as this Court may direct.

.3. When a public officer, who is a party to a proceeding in this Court in an official capacity, dies, resigns, or otherwise ceases to hold office, the action does not abate and any successor in office is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded.

.4. A public officer who is a party to a proceeding in this Court in an official capacity may be described as a party by the officer's official title rather than by name, but the Court may require the name to be added.

Rule 36. Custody of Prisoners in Habeas Corpus Proceedings

.1. Pending review in this Court of a decision in a habeas corpus proceeding commenced before a court, Justice, or judge of the United States, the person having custody of the prisoner shall not transfer custody to another person unless the transfer is authorized in accordance with the provisions of this Rule.

.2. Upon application by a custodian showing a need therefor, the court, Justice, or judge rendering the decision under review may authorize transfer and the substitution of a successor custodian as a party.

.3. (a) Pending review of a decision failing or refusing to release a prisoner, the prisoner may be detained in the custody from which release is sought or in other appropriate custody or may be enlarged upon personal recognizance or bail, as may appear fitting to the court, Justice, or judge rendering the decision, or to the court of appeals or to this Court or to a judge or Justice of either court.

(b) Pending review of a decision ordering release, the prisoner shall be enlarged upon personal recognizance or bail, unless the court, Justice, or judge rendering the decision, or the court of appeals, or this Court, or a judge or Justice of either court, shall otherwise order.

.4. An initial order respecting the custody or enlargement of the prisoner, and any recognizance or surety taken, shall continue in effect pending review in the court of appeals and in this Court unless for reasons shown to the court of appeals or to this Court, or to a judge or Justice of either court, the order is modified or an independent order respecting custody, enlargement, or surety is entered.

Rule 37. Brief of an Amicus Curiae

.1. An *amicus curiae* brief which brings relevant matter to the attention of the Court that has not already been brought to its attention by the parties is of considerable help to the Court. An *amicus* brief which does not serve this purpose simply burdens the staff and facilities of the Court and its filing is not favored.

.2. A brief of an *amicus curiae* submitted prior to the consideration of a petition for a writ of certiorari or a jurisdictional statement, accompanied by the written consent of all parties, may be filed only if submitted within the time allowed for filing a brief in opposition to the petition for a writ of certiorari or for filing a motion to dismiss or affirm. A motion for leave to file a brief *amicus curiae* when consent

has been refused is not favored. Any such motion must be filed within the time allowed for the filing of the brief *amicus curiae*, must indicate the party or parties who have refused consent, and must be printed with the proposed brief. The cover of the brief must identify the party supported.

.3. A brief of an *amicus curiae* in a case before the Court for oral argument may be filed when accompanied by the written consent of all parties and presented within the time allowed for the filing of the brief of the party supported, or, if in support of neither party, within the time allowed for filing the petitioner's or appellant's brief. A brief *amicus curiae* must identify the party supported or indicate whether it suggests affirmance or reversal, and must be as concise as possible. No reply brief of an *amicus curiae* and no brief of an *amicus curiae* in support of a petition for rehearing will be received.

.4. When consent to the filing of a brief of an *amicus curiae* in a case before the Court for oral argument is refused by a party to the case, a motion for leave to file indicating the party or parties who have refused consent, accompanied by the proposed brief and printed with it, may be presented to the Court. A motion will not be received unless submitted within the time allowed for the filing of an *amicus* brief on written consent. The motion shall concisely state the nature of the applicant's interest and set forth facts or questions of law that have not been, or reasons for believing that they will not be, presented by the parties and their relevancy to the disposition of the case. The motion may in no event exceed five pages. A party served with the motion may file an objection thereto concisely stating the reasons for withholding consent which must be printed in accordance with Rule 33. The cover of an *amicus* brief must identify the party supported or indicate whether it supports affirmance or reversal.

.5. Consent to the filing of a brief of an *amicus curiae* is not necessary when the brief is presented on behalf of the United States by the Solicitor General; on behalf of any agency of the United States authorized by law to appear on its own behalf when submitted by the agency's authorized legal representative; on behalf of a State, Territory, or Commonwealth when submitted by its Attorney General; or on behalf of a political subdivision of a State, Territory, or Commonwealth when submitted by its authorized law officer.

.6. Every brief or motion filed under this Rule must comply with the applicable provisions of Rules 21, 24, and 33 (except that it shall be sufficient to set forth in the brief the interest of the *amicus curiae*, the argument, the summary of the argument, and the conclusion); and shall be accompanied by proof of service as required by Rule 29.

Rule 38. Fees

In pursuance of 28 U.S.C. § 1911, the fees to be charged by the Clerk are fixed as follows:

(a) For docketing a case on a petition for a writ of certiorari or on appeal or docketing any other proceeding, except a certified question or a motion to docket and dismiss an appeal pursuant to Rule 18.5, $300.00.

(b) For filing a petition for rehearing or a motion for leave to file a petition for rehearing, $200.00.

(c) For the reproduction and certification of any record or paper, $1.00 per page; and for comparing with the original thereof any photographic reproduction of any record or paper, when furnished by the person requesting its certification, $.50 per page.

(d) For a certificate under seal, $25.00.

(e) For a check paid to the Court, Clerk, or Marshal which is returned for lack of funds, $35.00.

Rule 39. Proceedings In Forma Pauperis

.1. A party desiring to proceed *in forma pauperis* shall file with the pleading a motion for leave to proceed *in forma pauperis*, together with the party's notarized affidavit or declaration (in compliance with 28 U.S.C. § 1746) in the form prescribed by the Federal Rules of Appellate Procedure, Form 4. See 28 U.S.C. § 1915. If the United States district court or the United States court of appeals has appointed counsel under the Criminal Justice Act of 1964, as amended, the party need not file an affidavit or declaration in compliance with 28 U.S.C. § 1746, but the motion must indicate that counsel was appointed under the Criminal Justice Act. See 18 U.S.C. § 3006A(d)(6). The motion shall also state whether or not leave to proceed *in forma pauperis* was sought in any other court and, if so, whether leave was granted.

.2. The motion, and affidavit or declaration if required, must be filed with the petition for a writ of certiorari, jurisdictional statement, or petition for an extraordinary writ, as the case may be, and shall comply in every respect with Rule 21, except that it shall be sufficient to file a single copy. If not received together, the documents will be returned by the Clerk.

.3. Every paper or document presented under this Rule must be clearly legible and, whenever possible, must comply with Rule 34. While making due allowance for any case presented under this Rule by a person appearing *pro se*, the Clerk will refuse to receive any document sought to be filed that does not comply with the substance of these Rules, or when it appears that the document is obviously and jurisdictionally out of time.

.4. When the papers required by paragraphs .1 and .2 of this Rule are presented to the Clerk, accompanied by proof of service as prescribed by Rule 29, they are to be placed on the docket without the payment of a docket fee or any other fee.

.5. The respondent or appellee in a case filed *in forma pauperis* may respond in the same manner and within the same time as in any other case of the same nature, except that the filing of 12 copies of a typewritten response, with proof of service as required by Rule 29, will suffice whenever the petitioner or appellant has filed typewritten papers. The respondent or appellee may challenge the grounds for the motion to proceed *in forma pauperis* in a separate document or in the response itself.

.6. Whenever the Court appoints a member of the Bar to serve as counsel for an indigent party in a case set for oral argument, the briefs prepared by that counsel, unless otherwise requested, will be printed under the supervision of the Clerk. The Clerk will also reimburse appointed counsel for any necessary travel expenses to Washington, D.C., and return in connection with the argument.

.7. In a case in which certiorari has been granted or jurisdiction has been noted or postponed, this Court may appoint counsel to represent a party financially unable to afford an attorney to the extent authorized by the Criminal Justice Act of 1964, as amended, 18 U.S.C. § 3006A.

REFERENCES IN TEXT

Federal Rules of Appellate Procedure, referred to in par. .1, are set out in this Appendix.

The Criminal Justice Act of 1964, referred to in pars. .1 and .7, is Pub. L. 88-455, Aug. 20, 1964, 78 Stat. 552, as amended, which enacted section 3006A of Title 18, Crimes and Criminal Procedure, and provisions set out as notes under section 3006A of Title 18. For complete classification of this Act to the Code, see Short Title note set out under section 3006A of Title 18 and Tables.

Rule 40. Veterans, Seamen, and Military Cases

.1. A veteran suing to establish reemployment rights under 38 U.S.C. § 2022, or under any other provision of law exempting a veteran from the payment of fees or court costs, may file a motion to proceed upon typewritten papers under Rule 34, except that the motion shall ask leave to proceed as a veteran, and the affidavit shall set forth the moving party's status as a veteran.

.2. A seaman suing pursuant to 28 U.S.C. § 1916 may proceed without the prepayment of fees or costs or furnishing security therefor, but a seaman is not relieved of printing costs nor entitled to proceed on typewritten papers.

.3. An accused person petitioning for a writ of certiorari to review a decision of the United States Court of Military Appeals pursuant to 28 U.S.C. § 1259 may proceed without the prepayment of fees or costs or furnishing security therefor and without filing an affidavit of indigency, but is not relieved of the printing requirements under Rule 33 and is not entitled to proceed on typewritten papers except as authorized by the Court on separate motion.

PART VIII. DISPOSITION OF CASES

Rule 41. Opinions of the Court

Opinions of the Court will be released by the Clerk in preliminary form immediately upon delivery. Thereafter the Clerk shall cause the opinions of the Court to be issued in slip form and shall deliver them to the Reporter of Decisions who shall prepare them for publication in the preliminary prints and bound volumes of the United States Reports.

CROSS REFERENCES

Appointment and duties of Supreme Court Reporter, see section 673 of this title.

Printing and binding for Supreme Court, see section 676 of this title.

Supreme Court reports and digests, printing, binding and distribution, see sections 411 and 412 of this title.

Rule 42. Interest and Damages

.1. If a judgment for money in a civil case is affirmed, whatever interest is allowed by law shall be payable from the date the judgment below was entered. If a judgment is modified or reversed with a direction that a judgment for money be entered below, the mandate will contain instructions with respect to the allowance of interest. Interest will be allowed at the same rate that similar judgments bear interest in the courts of the State in which judgment was entered or was directed to be entered.

.2. When a petition for a writ of certiorari, an appeal, or application for other relief is frivolous, the Court may award the respondent or appellee just damages and single or double costs. Damages or costs may be awarded against the petitioner, appellant, or applicant, or against the party's attorney or against both.

CROSS REFERENCES

Damages and costs on affirmance, Supreme Court, see section 1912 of this title.

Rule 43. Costs

.1. If a judgment or decree is affirmed by this Court, costs shall be paid by the petitioner or appellant, unless otherwise ordered by the Court.

.2. If a judgment or decree is reversed or vacated by this Court, costs shall be allowed to the petitioner or appellant, unless otherwise ordered by the Court.

.3. The fees of the Clerk and the costs of printing the joint appendix are the only taxable items in this Court. The cost of the transcript of the record from the court below is also a taxable item, but shall be taxable in that court as costs in the case. The expenses of printing briefs, motions, petitions, or jurisdictional statements are not taxable.

.4. In a case involving a certified question, costs shall be equally divided unless otherwise ordered by the Court; but if a decision is rendered on the whole matter in controversy, see Rule 19.2, costs shall be allowed as provided in paragraphs .1 and .2 of this Rule.

.5. In a civil action commenced on or after July 18, 1966, costs under this Rule shall be allowed for or against the United States, or an officer or agent thereof, unless expressly waived or otherwise ordered by the Court. See 28 U.S.C. § 2412.

.6. When costs are allowed in this Court, the Clerk shall insert an itemization of the costs in the body of the mandate or judgment sent to the court below. The prevailing side shall not submit a bill of costs.

.7. If appropriate, the Court may adjudge double costs.

Rule 44. Rehearing

.1. A petition for the rehearing of any judgment or decision of the Court on the merits shall be filed within 25 days after the entry of the judgment or decision, unless the time is shortened or enlarged by the Court or a Jus-

tice. Forty printed copies, produced in conformity with Rule 33, must be filed (except when the party is proceeding *in forma pauperis* under Rule 39), accompanied by proof of service as prescribed by Rule 29 and the filing fee required by Rule 38. The petition must briefly and distinctly state its grounds. Counsel must certify that the petition is presented in good faith and not for delay; one copy of the certificate shall bear the manuscript signature of counsel. A petition for rehearing is not subject to oral argument, and will not be granted except at the instance of a Justice who concurred in the judgment or decision and with the concurrence of a majority of the Court.

.2. A petition for the rehearing of an order denying a petition for a writ of certiorari shall be filed within 25 days after the date of the order of denial and shall comply with all the form and filing requirements of paragraph .1 of this Rule, including the payment of the filing fee if required, but its grounds must be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. Counsel must certify that the petition is restricted to the grounds specified in this paragraph and that it is presented in good faith and not for delay. One copy of the certificate shall bear the manuscript signature of counsel or of a party not represented by counsel. A petition without a certificate shall be rejected by the Clerk. The petition is not subject to oral argument.

.3. No response to a petition for rehearing will be received unless requested by the Court, but no petition will be granted without an opportunity to submit a response.

.4. Consecutive petitions and petitions that are out of time under this Rule will not be received.

Rule 45. Process; Mandates

.1. All process of this Court shall be in the name of the President of the United States.

.2. In a case coming from a state court, the mandate shall issue 25 days after the entry of judgment, unless the time is shortened or enlarged by the Court or a Justice, or unless the parties stipulate that it be issued sooner. The filing of a petition for rehearing, unless otherwise ordered, will stay the mandate until disposition of the petition. If the petition is then denied, the mandate shall issue forthwith.

.3. In a case coming from a United States court, a formal mandate will not issue unless specially directed; instead, the Clerk will send the court a copy of the opinion or order of this Court and a certified copy of the judgment (which shall include provisions for the recovery of costs, if any are awarded). In all other respects, the provisions of paragraph .2 of this Rule apply.

Cross References

Determination by Supreme Court, remand, see section 2106 of this title.

Marshal to serve and execute process, see section 672 of this title.

Seal and teste of process, see section 1691 of this title.

Rule 46. Dismissing Cases

.1. Whenever all parties, at any stage of the proceedings, file with the Clerk an agreement in writing that a case be dismissed, specifying the terms with respect to the payment of costs, and pay to the Clerk any fees that may be due, the Clerk, without further reference to the Court, shall enter an order of dismissal.

.2. (a) A petitioner or appellant in a case in this Court may file a motion to dismiss the case, with proof of service as prescribed by Rule 29, and must tender to the Clerk any fees and costs payable. An adverse party may, within 15 days after service thereof, file an objection, limited to the quantum of damages and costs in this Court alleged to be payable, or, in a proper case, to a showing that the moving party does not represent all petitioners or appellants. The Clerk will refuse to receive any objection not so limited.

(b) When the objection goes to the standing of the moving party to represent the entire side, the party moving for dismissal, within 10 days thereafter, may file a reply, after which time the matter shall be submitted to the Court for its determination.

(c) If no objection is filed, or if upon objection going only to the quantum of damages and costs in this Court, the party moving for dismissal, within 10 days thereafter, tenders the whole of such additional damages and costs demanded, the Clerk, without further reference to the Court, shall enter an order of dismissal. If, after objection as to the quantum of damages and costs in this Court, the moving party does not respond with a tender within 10 days, the Clerk shall report the matter to the Court for its determination.

.3. No mandate or other process shall issue on a dismissal under this Rule without an order of the Court.

PART IX. APPLICATION OF TERMS AND EFFECTIVE DATE

Rule 47. Term "State Court"

The term "state court" when used in these Rules includes the District of Columbia Court of Appeals and the Supreme Court of the Commonwealth of Puerto Rico. See 28 U.S.C. §§ 1257 and 1258. References in these Rules to the common law and statutes of a State include the common law and statutes of the District of Columbia and of the Commonwealth of Puerto Rico.

Rule 48. Effective Date of Amendments

These Rules adopted December 5, 1989, shall be effective January 1, 1990.